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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,162	10/22/2003	Marie D. Radatti	CSOFT-0029	5978

7590 09/11/2006

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EXAMINER

PADEN, CAROLYN A

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/691,162	Applicant(s) RADATTI ET AL.	
	Examiner Carolyn A. Paden	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6, 8-17 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8-17, 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of Group II in the reply filed on July 18, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8, 9, 10-17 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aurio (US 2006.0099324) taken with Tye (5,308,636).

Aurio discloses a composition containing viscous fibers, such as Konjac glycomannan (paragraph 0024) in combination with viscosity lowering proteins (paragraph 0033). The ingredients are combined together by mixing and then boiling in water (paragraph 0085). A number of foods are made from this admixture, as shown in paragraph 0068-0069. Although dough is not mentioned in these paragraphs, dough is used in the preparation of many baked goods. The claims appear to differ from Aurio in the recitation of imitation seafood. Tye uses konjac mannan in the

formulation of imitation seafood in example 9. It would have been obvious to one of ordinary skill in the art to prepare the imitation seafood of Tye and have it on hand with dough goods of Aurio in order to prepare a more well balanced meal. It is appreciated that insoluble fibers are not mentioned but to add insoluble fibers to dough for the baked goods of Aurio would have been an obvious way to enhance the nutritional quality of the food product. It is also appreciated that gas bubbles are not mentioned but these bubbles would have been expected from the mixing action in Aurio. Baking soda is an obvious ingredient in baked goods. It would also have been obvious to alter the particular seafood flavoring of claim 14 to vary the taste of the food.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tye (5,308,636).

Tye discloses a konjac/starch system, which is formed to create a gel that does not contain animal protein (example 1). The claims appear to differ from Tye in the recitation of the inclusion of an insoluble fiber into the gel. In examples 5 and 6, starch-based foods are prepared without any special requirement for dietary fiber. It would have been obvious to

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enhance the nutritional quality of pasta or and extruded food of Tye by
adding dietary fiber to the formulation.



CAROLYN PADEN 9-7-06
PRIMARY EXAMINER 1761